

REMARKS

This Amendment, submitted in response to the Office Action dated April 20, 2005, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-15 and 17-23 are all the claims pending in the application.

I. Rejection of claims 1, 8 and 20 under 35 U.S.C. § 102 and Rejection of claims 1-6, 8-12, 14, 15, 17 and 20-23 under 35 U.S.C. § 102

Claims 1, 8 and 20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Allen et al. (U.S. Patent No. 5,737,491). Claims 1-6, 8-12, 14, 15, 17 and 20-23 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Tullis (U.S. Patent No. 6,535,243).

Claim 1 has been amended to include subject matter similar to claim 16. Claim 16 has consequently been canceled. Independent claims 8, 14, 15, and 20-23 have also been amended to include subject matter similar to claim 16.

In rejecting former claim 16, the Examiner concedes that neither Tullis or Allen discloses this aspect of the claim, therefore the Examiner takes Official Notice.

The Examiner's reasoning appears to be primarily based on impermissible hindsight. Furthermore, Applicant traverses the Examiner's assertion of Official Notice, and requests that the Examiner provide documentary evidence in the next Office Action if the rejection is to be maintained. MPEP 2144.03.

The Examiner asserts that Allen, col. 4, lines 24-28, col. 14, line 55- col. 5, line 3, col. 5, lines 14-17, discloses "reasoning out or creating at least one information of information relating

to photographing control, information relating to image processing and information relating to a photographed image, in accordance with said at least one of said photographed image data,” as recited in claim 1.

However, Allen merely performs in the fulfillment server 34 (central processor 37) a desired processing in accordance with (“respond to”, see col. 4, line 28) the control signals, and does not create any information relating to photographing control and the like from the image data and the voice indication data.

The Examiner alleges that the external input device 27 of Allen corresponds to the portable external apparatus recited in these claims of the present application. However, the external input device 27 of Allen is an indication inputting device such as a keyboard or a touch screen as described in col. 2, line 63 to col. 3, line 4. The input device of Allen, as asserted by the Examiner, is not intended to perform image processings. Thus, the external input device 27 of Allen does not disclose the (portable) external apparatus of the present invention.

For at least the above reasons, claim 1 and its dependent claims should be deemed allowable. To the extent independent claims 8, 14, 15, and 20-23 recite similar elements, claims 8, 14, 15, and 20-23 and their dependent claims should also be deemed allowable for at least the same reasons.

Claims 5 and 11

The Examiner asserts that Tullis discloses “wherein said information relating to the photographed image is principal subject information reasoned out or created in accordance with said photographed image data” as recited in claim 5. However, there is no teaching or suggestion in Tullis of reasoning out or creating (or extracting) principal subject information.

Consequently, Tullis does not teach the elements of claim 5, therefore, claim 5 should be deemed allowable. Since claim 11 recites similar elements, claim 11 should also be deemed allowable for at least the same reason.

II. Rejection of claims 7 and 13 under 35 U.S.C. § 103

Claims 7 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Tullis. Claims 7 and 13 should be deemed allowable by virtue of their dependency to claims 1 and 8 for the reasons set forth above.

III. Rejection of claims 16, 18 and 19 under 35 U.S.C. § 103

Claims 16, 18 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Tullis and further in view of Allen et al. Claim 16 has been canceled, consequently the rejection of claim 16 is now moot. Claims 18 and 19 should be deemed allowable by virtue of their dependency to claims 1 and 15 for the reasons set forth above. Moreover, Tullis and Allen does not teach the elements of claims 18 and 19. See e.g. page 13, lines 1-15 and page 41, line 11 to page 43, line 4 of Applicant's specification.

IV. Conclusion


In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Application No. 09/760,647

Attorney Docket No. Q62079

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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